

Notice of Allowability

Application No.

09/077,574

Examiner

S. Devi, Ph.D.

Applicant(s)

PANACCIO ET AL.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' after-final amendment filed 10/05/05.
2. ☒ The allowed claim(s) ~~is~~ are 1, 2, 12, 114-116, 32, 33, 37 and 40 now renumbered as claims 1, 2, 3, 4-6, 7, 8, 9 and 10 respectively.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☒ Other See Continuation Sheet.

Continuation of Attachment(s) 9. Other: Previous IDS & 892 with duplicate citations lined through (2 pages).

ATTACHMENT TO NOTICE OF ALLOWABILITY

Applicants' After-Final Amendment

- 1) Acknowledgment is made of Applicants' after-final amendment filed 10/05/05 in response to the final Office Action mailed 07/05/05. The after-final amendment has been entered.

Examiner's Amendment

- 2) An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicants, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. The authorization to prepare this Examiner's amendment was provided by Mr. Daniel Altman during telephonic interviews on 10/14/05. Accordingly, this application has been amended as indicated below:

- (a) Claim 1 is amended as shown below:

--Claim 1 (Currently amended) A composition for administration to an animal[[,]] comprising an isolated immunogenic heatshock protein of *Lawsonia intracellularis* comprising the amino acid sequence of SEQ ID NO: 2 ~~in an amount effective to induce an immune response against *L. intracellularis* in said animal~~; and a pharmaceutically acceptable carrier.--

- (b) Claim 32 is amended as shown below:

-- Claim 32 (Currently amended) A method ~~for~~ of inducing an immune response in an animal against *L. intracellularis*, said method comprising the step of administering to said animal the composition of Claim 1 in an amount effective to induce an immune response ~~to~~ against *L. intracellularis* in said animal.--

- (c) Claim 40 is amended as shown below:

-- Claim 40 (Currently amended) The method according to Claim 37, wherein said protein or peptide is selected from the group consisting of a refolding protein, a flagellar basal body rod protein, an S-adenosylmethionine[[,]] tRNA ribosyltrnsferase-isomerase, an autolysin, an enoyl-tacyl-carrier-protein) reductase, and a glucarate transporter.--

- (d) Claim 114 is amended as shown below:

-- Claim 114 (Currently amended) The composition of Claim 1, wherein said composition further comprises at least one other polypeptide or peptide comprising the amino acid sequence

selected from the group consisting of: SEQ ID NO[[S]]: 4, 7, 8, 10, 11, 13, 14, 16-20, and 22-27.--

(e) Claim 115 is amended as shown below:

-- Claim 115 (Currently amended) The composition of Claim 1, further comprising at least one other protein or peptide, which is encoded by the nucleotide sequence selected from the group consisting of: SEQ ID NO[[S]]: 3, 5, 6, 9, 12, 15, 21, 28, 29, 30, 31, 32, 33, and 34.--

Status of Claims

- 3) Claims 32, 37, 40 and 116 have been amended via the amendment filed 10/05/05.
Claims 1, 2, 12, 32, 33, 37, 40 and 114-116 are pending and are under examination.

Rejection(s) Withdrawn

- 4) The rejection of claim 116 made in paragraph 28(f) of the Office Action mailed 10/01/04 under 35 U.S.C § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the claim.
- 5) The rejection of claims 32, 33, 37 and 40 made in paragraph 27 of the Office Action mailed 10/01/04 under 35 U.S.C § 112, first paragraph, as being non-enabled with regard to the scope, is withdrawn in light of Applicants' amendment to the claims and/or the base claim(s).
- 6) The rejection of claim 32 made in paragraph 23(a) of the Office Action mailed 07/05/05 under 35 U.S.C § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the claim.
- 7) The rejection of claim 40 made in paragraph 23(b) of the Office Action mailed 07/05/05 under 35 U.S.C § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the claim and the amendment to the claim made via this Examiner's amendment.
- 8) The rejection of claims 33 and 37 made in paragraph 23(c) of the Office Action mailed 07/05/05 under 35 U.S.C § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the base claim.

Remarks

- 9) Claims 1, 2, 12, 32, 33, 37, 40 and 114-116, are allowed. The product claims 12 and 114-116 are now renumbered as claims 3-6 respectively. The methods claims 32, 33, 37 and 40 are now renumbered as claims 7, 8, 9 and 10 respectively.

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10) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform with the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The Fax number for submission of amendments, responses or papers is (571) 273-8300.


11) Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAG or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.Mov>. Should you have questions on access to the Private PAA system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

12) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (571) 272-0864.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

October, 2005


S. DEVI, PH.D.
PRIMARY EXAMINER